IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1421 OF 2007

IN

SUIT NO.2005 OF 1986

M/s.National Textile Corporation
Limited New Delhi & Anr. ... Plaintiffs.

versus

M/s.Voltas Ltd. ... Defendants.

Mr.Amar Mishra i/by Ms.Poonam Shrivastav for the plaintiffs.
Mr.G.R.Joshi with Mr.Avinash Joshi i/by Mulla & Mulla for the defendants.

CORAM : A.S.OKA, J.

DATED : 11/09/2007.

P.C.

1. Heard learned counsel appearing for the plaintiffs in support of the chamber summons. The prayer in this chamber summons is for grant of permission to lead secondary evidence of the

five documents which are set out in paragraph No.4 of affidavit in support of the chamber summons.

2. In para 3 of the affidavit in support it is stated that the original documents of which secondary evidence is sought to be led are in possession of earlier Advocates of the plaintiffs M/s. Pandya & Poonawala.

3. The learned counsel appearing for the plaintiffs submits that correspondence has been made to the said advocates and they have not parted with the documents and, therefore, he submitted that in view of clause (c) of Section 65 of the Indian Evidence Act, 1872, the plaintiffs are entitled to lead secondary evidence.

4. The plaintiffs can always apply for issuing witness summons to M/s.Pandya and Poonawala for the production of original documents in their custody. The plaintiffs have not taken any step as of today to get the witness summons issued to the said advocates. Therefore, as of today, it cannot be said that the

plaintiffs are unable to produce the original documents in reasonable time.

5. Therefore, at this stage, the prayer made in the chamber summons cannot be entertained. The chamber summons is accordingly dismissed with liberty to the plaintiffs to take proper steps for seeking production of the original documents. Suit shall be listed after two weeks.

[A.S.OKA, J.]